

Remarks/Arguments

Claims 1-24 are pending in the present application. Claim 21 has been amended. Pursuant to 37 CFR 1.111, Applicants respectfully request entrance of this amendment on the present application. The Applicants respectfully submit that the present claims are in condition for allowance and respectfully requests an early notice of Allowance or other favorable action. Please charge any prosecution fees which are due to Kimberly-Clark Corporation's Deposit Account No. 11-0875.

35 USC §103 Rejections

The Examiner has rejected claims 1-7, 11-17, and 21-24 under 35 USC §103(a) as being unpatentable over Neal (US Patent 4570628) in view of Grier-Idris (US Patent 4957120).

The Applicants respectfully traverse this rejection.

Independent claims 1, 11, and 21 each specify that the sides of the pouch component and/or caddy are sealed partially, i.e., a portion of each of the sides is left unsealed. More specifically claim 1 states in pertinent part; "a rear panel and a front panel superimposed one over the other and *sealed to one another along a bottom edge and partially up opposing side edges* so as to form a pouch having an open top and partially open sides". Claim 11 states in pertinent part; "the caddy further comprising overlapping panels *sealed to one another along a bottom edge and partially up opposing side edges*". Claim 21 as amended recites in pertinent part; "a pouch having a top, a bottom, and sides, attached to the drape in proximity to the fenestration, the bottom and *a portion of the sides being sealed* to permit liquid to be held within the pouch".

In reviewing Neal and Grier-Idris, the Applicants were unable to locate any reference to side edges that were sealed only partially. In fact, one of the needs Neal seeks to address is the need for "incorporating some type of liquid collecting container in conjunction with the surgical drape so as to make a reasonable estimate as to the amount of blood lost by the patient." See Column 1, lines 36-40. As such, nowhere in Neal is there disclosure or teaching of only sealing a portion of the sides.

In contrast, Grier-Idris discloses a pouch for use in conjunction with limb surgery. That is, the pouch is designed to keep a patient's limb, e.g., the leg, sterile during a surgical procedure although the leg may be draped over the side of the operating table into a non-sterile environment. See Column 2, lines 26-42. Also see Column 1, lines 39-61 for an explanation as to why the plane below the surface of the operating table is considered non-sterile and how the Grier-Idris pouch addresses this concern. Nowhere does Grier-Idris suggest or teach a pouch of only sealing a portion of the sides.

Furthermore, the two references are not combinable in a manner that would obviate the present invention. Specifically, Neal teaches a pouch that is designed to contain liquids and to provide volumetric indicia on the pouch to enable a surgical team to properly assess the fluid loss from the patient. In comparison, Grier-Idris teaches a pouch that envelops a patient's limb and is not intended for the collection of fluids or other detritus stemming from the surgical procedure. See column 3, line 67 through column 4, line 5 where it is stated that:


If desired, the top edge 24 of pouch 22, may also include a row of snaps 32 or other releasable fastening means which can be used to close the pouch 22 around the limb once it is inserted. This serves to further isolate the limb when it is in this position and it *also helps to prevent objects such as sponges, etc., from falling into the pouch during surgery.*

It is respectfully submitted that the cited and applied references are different in concept and construction from the present invention, and that any combination of these references would still not suggest the crux of the instant invention, except through the unfair use of hindsight stemming from the present disclosure itself to show the way. Accordingly, the obviousness rejection is not believed to be warranted and should be withdrawn.

The Examiner also rejected dependent claims 8-10, and 18-20 as being unpatentable over Neal and further in view of Rothrum (US Patent 5618278). The Applicants traverse this rejection for at least the same reason stated above, Rothrum does not suggest or teach a pouch of only sealing a portion of the sides. Moreover, claims 8-10, and 18-20 depend from independent claims 1 and 11 respectively.

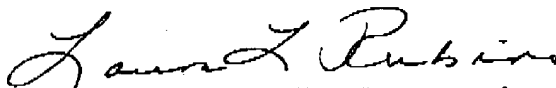
In conclusion, the Applicants respectfully submit that the present claims are in condition for allowance and respectfully request an early notice of Allowance or other favorable action. Please charge any prosecution fees which are due to Kimberly-Clark Corporation's Deposit Account No. 11-0875. The Examiner is invited to telephone the undersigned at his convenience should only minor issues remain after consideration of the present amendment to permit early resolution of the same.

Respectfully submitted,
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CERTIFICATE OF MAILING

I, Laura L. Rubino, hereby certify that on Monday, August 16, 2004, this document is being facsimile transmitted to the United States Patent and Trademark Office Fax No. 703-872-9306.


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